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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,607	10/15/2001	William L. Hecht	0112300/959	5117

29159 7590 10/07/2003

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CHICAGO, IL 60690-1135

EXAMINER

CHERUBIN, YVESTE GILBERTE

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 10/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/978,607

Applicant(s)

HECHT ET AL.

Examiner

Yveste G. Cherubin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 October 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> . | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. This action is in response to the communication of the US Application 09/978,607 filed on October 15, 2001 in which claims 1-26 are pending.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Hoke (US Patent No. 6,561,908).

As per claim 1-26, Hoke discloses a method for providing sound change when the CPU detects a sound-causing-event, 1:38-40, which can easily be game starts events, value-winning events, bonus triggering events, player selection

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events, game termination events, theme change event etc...2:29-32, In addition, Hoke discloses changing a sound file where the sound file changes can include increasing or decreasing the volume of the current musical sound recording, playing a sound effect on any beat or bar on the instant/current beat, 3:20-32. The sound file changes are being read as the variant files which are inherently stored before being played. In reference to Fig 2, Hoke discloses a gaming device comprising, among other things, a storage device (104) capable of storing program code or other data such as primary sound file recording, 6:1-9, a plurality of speakers, (36), a sound card, one or more input devices (108) where all of these components electronically communicate with one another through a bus (110). Hoke further discloses stopping a primary sound file at a predetermined point in time after the player causes a player input event to occur, 8:7-14.

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
  - a. US Patent No. 5,606,144 to Dabby which teaches method of and apparatus for computer-aided generation of variations of a sequence of symbols, such as musical piece, and other data, character or image sequences.
  - b. US Patent No. 6,544,122 to Araki et al. which teach background control system for a video game apparatus.

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c. US Patent No. 5,331,112 to Sato et al. which teaches apparatus for cross-correlating additional musical part to principal part through time.

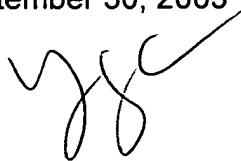
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yveste G. Cherubin whose telephone number is (703) 306-3027. The examiner can normally be reached on 9:30 - 6:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, T. Walberg can be reached on (703) 308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2159.

September 30, 2003

ygc



  
Teresa Walberg  
Supervisory Patent Examiner  
Group 3700